

10-K/A 1 f00256a1e10vkza.htm AMENDMENT TO FORM 10-K

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM 10-K/A
(Amendment No. 1)**

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended April 30, 2004

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: 0-29939

OMNIVISION TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

**Delaware
(State or other jurisdiction
of incorporation or organization)**

**77-0401990
(I.R.S. Employer
Identification Number)**

**1341 Orleans Drive, Sunnyvale, CA 94089-1136
(Address of principal executive offices) (Zip Code)**

Registrant's telephone number, including area code: (408) 542-3000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
None	None

**Securities registered pursuant to Section 12(g) of the Act:
Common Stock, \$0.001 par value**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

As of October 31, 2003, the last business day of Registrant's most recently completed second fiscal quarter, there were 54,157,904 shares of Registrant's common stock outstanding, and the aggregate market value of such shares held by non-affiliates of Registrant (based upon the closing sale price of such shares on the Nasdaq National Market on October 31, 2003) was approximately \$1,283,958,883. Shares of Registrant's common stock held by the Registrant's executive officers and directors and by each entity that owns 5% or more of Registrant's outstanding common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of July 12, 2004, the registrant had outstanding 56,375,956 shares of Common Stock.

DOCUMENTS INCORPORATED BY REFERENCE

The Registrant has incorporated by reference into Part III of this Annual Report on Form 10-K portions of its Proxy Statement for the 2004 Annual Meeting of Stockholders.

EXPLANATORY NOTE

This amended Annual Report on Form 10-K/A is being filed solely for the purpose of amending and restating Item 15 of Part IV of the Form 10-K originally filed to correct typographical errors with respect to the dates given in the "Report of Independent Registered Public Accounting Firm on Financial Statement Schedule" that appears therein, and for the purpose of filing the Exhibit 23.1, "Consent of Independent Registered Public Accounting Firm." We have made no further changes to the previously filed Form 10-K. The original filing of this Annual Report on Form 10-K inadvertently included the "Report of Independent Registered Public Accounting firm on Financial Statement Schedule" as Exhibit 23.1.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) The following documents are filed as part of this Report:

1. Financial Statements. Refer to the financial statements filed as a part of this Report under “*Item 8-Financial Statements and Supplementary Data.*”

2. Financial Statement Schedules. The following financial schedule is filed as part of this Report under “*Schedule II-Valuation and Qualifying Accounts for the Years Ended April 30, 2004, 2003 and 2002.*” All other schedules called for by Form 10-K have been omitted because they are not applicable or are not required or the information required to be set forth therein is included in the consolidated financial statements or notes thereto.

3. Exhibits.

Exhibit Number	Description
3.1	(1) Restated Certificate of Incorporation
3.2	(1) Bylaws of the Registrant
4.1	(1) Specimen Common Stock Certificate
4.2	(1) Amended and Restated Registration Rights Agreement, dated as of May 20, 1998, by and among the Registrant and certain stockholders of the Registrant
4.3	(3) Preferred Stock Rights Agreement, dated August 21, 2001, between the Registrant and Equiserve Trust Company, N.A., including the Certificate of Designation, the form of Rights Certificate and Summary of Rights attached thereto as Exhibits A, B and C, respectively
10.1	(1) Form of Indemnification Agreement between the Registrant and each of its directors and officers
10.2	(1) 2000 Stock Plan and form of option agreement
10.3	(1) 2000 Employee Stock Purchase Plan and form of subscription agreement
10.4	(1) 2000 Director Stock Option Plan and form of option agreement
10.5	(4) Lease Agreement between the Registrant and Caribbean/Geneva Investors and Crossman Partners, L.P., dated March 14, 2003, for the premises at 1341 Orleans Drive, Sunnyvale, California 94089-1136
*10.6	(1) Non-exclusive Distributor Agreement between the Registrant and World Peace Industrial Co., Ltd. dated January 1, 1998
10.7	(2) Agreement on Construction of Complete Municipal Facilities, Shanghai Songjiang Export Processing Zone between OmniView Technology International Ltd. and Shanghai Songjiang Export Processing Zone Administrative Committee dated December 28, 2000

- 10.8 (2) Shanghai Songjiang Export Processing Zone Administrative Committee Official Reply to the Feasibility Study Report and Articles of Association of Foreign Solely-funded Omni View Electronics (Shanghai) Co., Ltd. dated December 19, 2000
- 10.9 (2) Contract on the Transfer of Shanghai State-owned Land Use Right between OmniView Technology International Ltd. and Shanghai Songjiang District Building and Land Administrative Bureau dated December 28, 2000
- 10.10 (5) Common Stock Purchase Warrant dated July 25, 2003 issued to our former chief financial officer
- *10.11(a) (6) Shareholders' Agreement, dated October 29, 2003, by and between the Registrant and Taiwan Semiconductor Manufacturing Company
- *10.11(b) (6) Letter of Comfort, dated October 29, 2003, by and between the Registrant and Taiwan Semiconductor Manufacturing Company
- 21.1 (7) Subsidiaries of the Registrant
- 23.1 Consent of Independent Registered Public Accounting Firm
- 24.1 Power of Attorney (included on page 79)
- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of Sarbanes-Oxley Act of 2002.
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of Sarbanes-Oxley Act of 2002.
- 32 (7) Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* Portions of this agreement have been omitted pursuant to a request for confidential treatment and the omitted portions have been filed separately with the Securities and Exchange Commission.

- (1) Incorporated by reference to exhibits filed with Registrant's Registration Statement on Form S-1 (File No. 333-31926) as declared effective by the Securities and Exchange Commission on July 13, 2000.
- (2) Incorporated by reference to exhibits filed with Registrant's Quarterly Report on Form 10-Q for the quarter ended January 31, 2001.
- (3) Incorporated by reference to exhibits filed with Registrant's Registration Statement on Form 8-A (Reg. No. 000-29939) as declared effective by the Securities and Exchange Commission on September 12, 2001.
- (4) Incorporated by reference to exhibits filed with Registrant's Annual Report on Form 10-K for the fiscal year ended April 30, 2003.
- (5) Incorporated by reference to exhibits filed with Registrant's Quarterly Report on Form 10-Q for the quarter ended July 31, 2003.
- (6) Incorporated by reference to exhibits filed with Registrant's Quarterly Report on Form 10-Q for the quarter ended October 31, 2003.
- (7) Previously filed.

(b) Reports on Form 8-K. We furnished a Current Report on Form 8-K on February 18, 2004 announcing our financial results for our third fiscal quarter ended January 31, 2004. Such report was "furnished," but not filed.

(c) Exhibits Pursuant to Item 601 of Regulation S-K. See Item 15(a)(3) above.

(d) Financial Statement Schedules. See Item 15(a)(2) above.

**Report of Independent Registered Public Accounting Firm on
Financial Statement Schedule**

To the Board of Directors and Stockholders of OmniVision Technologies, Inc.:

Our audits of the consolidated financial statements referred to in our report dated July 14, 2004 appearing in this Annual Report on Form 10-K also included an audit of the financial statement schedule listed in Item 15(a)(2) of this Form 10-K. In our opinion, this financial statement schedule presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements.

/s/ PRICEWATERHOUSECOOPERS LLP

PricewaterhouseCoopers LLP
San Jose, California
July 14, 2004

SCHEDULE II

OMNIVISION TECHNOLOGIES, INC.

VALUATION AND QUALIFYING ACCOUNTS

For the Years Ended April 30, 2004, 2003, and 2002
(In thousands)

Description	Balance at Beginning of Year	Additions and Charges to Expenses	Write-offs and Deductions	Balance at End of Year
Allowance for doubtful accounts receivable:				
Fiscal year ended April 30, 2004	\$ 915	\$ 1,700	\$ 835	\$ 1,780
Fiscal year ended April 30, 2003	\$ 671	\$ 244	\$ —	\$ 915
Fiscal year ended April 30, 2002	\$ 114	\$ 575	\$ 18	\$ 671
Deferred tax valuation allowance:				
Fiscal year ended April 30, 2004	\$ —	\$ 1,260	\$ —	\$ 1,260
Fiscal year ended April 30, 2003	\$ 6,021	\$ —	\$ 6,021	\$ —
Fiscal year ended April 30, 2002	\$ 6,307	\$ —	\$ 286	\$ 6,021
Sales return reserve:				
Fiscal year ended April 30, 2004	\$ 1,140	\$ 4,372	\$ 2,211	\$ 3,301
Fiscal year ended April 30, 2003	\$ 754	\$ 813	\$ 427	\$ 1,140
Fiscal year ended April 30, 2002	\$ 633	\$ 283	\$ 162	\$ 754

/s/ Raymond Wu*

Executive Vice President and Director

July 22, 2004

Raymond Wu

/s/ Joseph Jeng*

Director

July 22, 2004

Joseph Jeng

/s/ Andrew Wang*

Director

July 22, 2004

Andrew Wang

/s/ Edward C. V. Winn*

Director

July 22, 2004

Edward C. V. Winn

* By:

/s/ Shaw Hong

Shaw Hong

Attorney-in-Fact

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